

reply. Most of Defendants' Response does not address WSOU's motion for leave and instead amounts to a sur-sur-reply filed without leave. Given that Defendants took the liberty of filing a sur-sur-reply, there can be little reason now to deny WSOU's motion for leave to file its sur-reply.

Defendants' Response accuses WSOU of improper conduct, claiming WSOU's sur-reply is "vexatious" and possibly sanctionable under 18 U.S.C. § 1927. Defendants' Response also rudely accuses WSOU of "flip-flopping," "sloppy briefing," and taking "bizarre" positions. Defendants have made a habit of including these types of *ad hominem* attacks in their briefs.¹ Given that the accusations in Defendants' Response are directed at the merits of WSOU's sur-reply, they are themselves improper. Defendants did not seek or obtain leave to file a sur-sur-reply addressing the merits of WSOU's sur-reply. Defendants Response, which is really a sur-sur-reply filled with irrelevant, hyperbolic, and false accusations against WSOU, should be disregarded or struck. And while Defendants' new motions filed after the deadline, now stricken, might be considered vexatious, there is nothing vexatious about WSOU's proposed sur-reply.

Therefore, based on the arguments above, WSOU respectfully requests that its motion for leave be granted.

¹ In Defendants' statement supporting their proposed scheduling order, for example, Defendants claimed the parties agreed to extend the deadline for all motions to transfer to December 4, 2020 and accused WSOU of "frankly outrageous" "gamesmanship" for arguing otherwise. -487 Dkt. 44 at 6. WSOU did *not* agree to extend the § 1404 deadline. See **Exhibit A** (being filed only in the -487 case for efficiency); -487 Dkt. 41 ¶ 6 (motion to extend filed by Defendants admitting WSOU did not agree to extend the § 1404 deadline).

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 11, 2020 a true and correct copy of the foregoing document was served upon all counsel of record via the Court's electronic delivery system under this Court's Local Rules.

/s/ Travis Richins

Travis Richins